THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.26486 OF 1996

DATE: 26th JUNE 2006

Between:

M/s. Dabur India Limited,
Having its Regional Office at
5-9-1107, Anand Towers,
King Kothi, Hyderabad,
Represented by its Branch Administrating
Executive, Shri C.Narsing Rao.

.... Petitioner.

And

1. The Agricultural Market Committee,
   S.O., Kishangunj, Hyderabad,
   Represented by its Secretary, Gr.II.
   and another.

.... Respondents.

* * *

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring G.O.Ms.No.2095, Food and Agriculture (Agri-IV) Dept., dated 29.10.1968 as published at pages 1035 and 1039 of Part-II of Andhra Pradesh Gazette, dated 07.11.1968, insofar as honey being included in Schedule-II, as *ultra vires* of the powers of the second respondent under the provisions of the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (for short 'the Act').

2. According to the petitioner, it is a public limited company

engaged in the business of manufacture and sale of Ayurvedic drugs and certain items of food. The petitioner has various plants located in various parts of the country. One of the products, which the petitioner markets, is "honey". These are packed in bottles of various sizes for being sold in the market. Honey can both be a medicine and an item of food. The Act came into force on 18.11.1966 and it is provided for the purpose of consolidation and amendment of law relating to regulation and sale of agricultural produce, livestock and products of livestock and establishment of markets in connection therewith. Insofar as honey, it is not an agricultural produce. It is also not livestock nor it is a product of livestock. Therefore, the second respondent is incompetent to include honey in the impugned notification dated 29.10.1968. Further, the second respondent, in exercise of power conferred under Section 3(3) of the Act issued the impugned G.O. declaring the areas specified in Schedule-I thereunder to be areas notified for the purpose of the said Act in respect of agricultural produce, livestock and products of livestock, specified in Schedule-II. Under Schedule-II at serial No.52 under the head "Agricultural Group" (including forest produce and dairy produce), honey has been specified. According to the petitioner, honey cannot be included as one of the agricultural produce, and therefore, issuance of the very notification while invoking the powers under Section 3(3) of the Act itself is illegal and arbitrary.

3. The second respondent, denying the allegations made in the affidavit, filed a detailed counter-affidavit, stating that honey is collected from the flowers of trees and plants and under the

second limb of the definition of “Agriculture Produce”, the forest product, any produce of like nature either processed or unprocessed and declared by the Government by notification to be Agriculture produce. Conditions laid down under the second limb i.e., it should be forest produce or any produce of like nature and the Government should declare the same by notification to be agricultural produce are satisfied while including “honey” to be a notified agriculture produce in the impugned G.O. Therefore, the Government is competent to declare “honey” as a notified commodity and the notification is legal and valid. Further, in view of Section 7(1) of the Act, no person shall, within a notified area, set up, establish or use or continue or allow to be continued any place for the purchase, sale, storage, weighment, curing, dressing or processing of a notified agricultural produce or products of livestock. Therefore, the petitioner is required to take licence under Section 7(1) of the Act, and the writ petition is devoid of merits and liable to be dismissed.

4. Heard both sides.

5. Admittedly, extracting of honey is done by various methods i.e., by raising special plantation, by collecting from forests or collecting wherever beehives are there. Including honey as one of the agricultural produce by the Government in the impugned notification issued way back in 1968 either can be said to be arbitrary or illegal or without any power vested in them. Admittedly, it is an agricultural product and it satisfies the

definition of “Agricultural Produce” in its second limb under Section 2(1) i.e., agricultural produce to be anything produced from land in the course of agriculture or horticulture and includes forest produce or any produce of like nature either processed or unprocessed. Therefore, I am of the opinion that this writ petition is devoid of merit and liable to be dismissed.

6. The writ petition is accordingly dismissed. No order as to costs.

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C.V.RAMULU, J.

Date: 26th June 2006.
BSB